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December 13, 1994

Building The Wireless Future™

CTIA

Cellular Telecommunications Industry Association
1250 Connecticut Avenue, N.W.
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202-785-0081 Telephone
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Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

RECEIVED
DEC 1 3 1994
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: *Ex Parte* Contact
PR Docket No. 94-105

Dear Mr. Caton:

Pursuant to the Commission's *ex parte* rules, this letter serves as notice that Mr. Thomas E. Wheeler, President/CEO of the Cellular Telecommunications Industry Association, sent the attached letter to Chairman Reed E. Hundt with copies sent to Commissioners Quello, Barrett, Ness, and Chong. Since Mr. Wheeler's letter addresses matters before the Commission in the above referenced proceeding, it should be included in the docket.

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, an original and one copy of this letter are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Andrea D. Williams

Andrea D. Williams
Staff Counsel

Attachment

No. of Copies rec'd 0+1
List A B C D E

December 13, 1994

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CTIA
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Thomas E. Wheeler
President / CEO

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Chairman:

This is in response to the November 28, 1994 letter sent to you from the National Cellular Resellers Association ("NCRA"). In that letter, the NCRA challenges your recent remarks to the National Association of Regulatory Utility Commission concerning state regulation of CMRS services, particularly your statement that "the FCC, after an extensive investigation, found the CMRS market to be competitive."

As the Commission has documented, the NCRA's statements concerning cellular market dominance and the asserted lack of competition are simply erroneous. The NCRA fails to acknowledge that the Commission fully considered and rejected its arguments in the *CMRS Second Report and Order*. As you correctly stated, the Commission's determination of a competitive CMRS market is based upon its extensive investigation into these issues.

In the *CMRS Second Report and Order*, the Commission diligently analyzed the current state of competition in each of the CMRS categories including factors which facilitate or hinder collusion. Based on this analysis, the Commission correctly found the cellular industry to be sufficiently competitive to meet the statutory test for forbearance.[1] The Commission's decision to forbear from tariff regulation of cellular service was based upon three important reasons: 1) sufficient competition exists today, with additional competition of other wireless services such as PCS and ESMR promised in the future; 2) Sections 201, 202 and 208 provide important protections if market failure arises; and 3) forbearance is consistent with the public interest because tariffs are not essential to ensure that non-dominant carriers do not unjustly discriminate in their rates. The NCRA's studied avoidance of the Commission's decision concerning tariff forbearance of cellular

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[1] Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd. 1411, 1467 (1994).

service does not provide a complete analysis of the Commission's current findings on competition in the cellular marketplace.

The old adage advises, "When you don't have the facts, pound on the table." The table pounding of the NCRA merely reflects the absence of factual support for its statements. But then, we are sure you already knew that.

Sincerely,

Thomas E. Wheeler
President/CEO

cc: Commissioner Quello
Commissioner Barrett
Commissioner Ness
Commissioner Chong